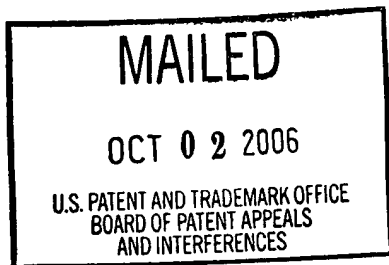


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL D. WHITMARSH,
WILLIAM HERTLING and MARK DOVI



Application No. 09/829,049

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 22, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

The Appeal Brief, filed February 13, 2006, is defective because the Summary of Claimed Subject Matter does not map the independent claims to the specification as set forth in 37 CFR § 41/37 (c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus

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function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief of February 13, 2006 defective;
- 2) for the applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief and, if necessary, vacate the Examiner's Answer mailed May 3, 2006 and issue a revised Examiner's Answer; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW

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DMS/eld

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